

REMARKS

Claims 1-13 remain pending in this application for which applicants seek reconsideration.

Claim 5 was rejected under 35 U.S.C. § 103(a) as unpatentable over Asada (USPGP 2006/0050897) in view of Grimani (USP 6,498,852). Claims 1-4 were rejected under § 103(a) as unpatentable over Asada in view of Grimani and Yeap (USP 4,118,601). Claim 6 was rejected under § 103(a) as unpatentable over Asada in view of Yeap. Claims 7-10 were rejected under § 103(a) as unpatentable over Asada in view of Aylward (USP 6,240,189). Lastly, claims 11-13 were rejected under § 103(a) as unpatentable over Asada in view of Aylward and Yeap.

Applicants traverse the above art rejections because Asada is not prior art since applicants perfected priority in the last reply (filed 12 November 2008). To be a prior art reference against the pending application, it must be an effective prior art (§ 102(e)) date earlier than December 23, 2003. Asada's earliest prior art date is the earliest publication date, which is June 3, 2004 (publication date of the PCT application (WO 2004/047490)). Asada has no § 102(e) date because its PCT application was not published in English, for the same reasons explained in the previous reply. See MPEP § 1896, Section II(B), which explicitly states that a national stage application filed under § 371 can be applied only under § 102(a) or (b) if its PCT application was not published in English.

The present priority application (23 December 2003) predates Asada's earliest publication date of 03 June 2004. Accordingly, Asada is not prior art. Applicants thus request that the examiner withdraw all art rejections and allow the pending claims.

Respectfully submitted,

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DATE

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